IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 22432 of 2003

Between:

M/s Pragna Educational Society, Rep. by its Correspondent & Secretary,
D. Gangan Mohan S/o Gangadher, R/o Beside Police Station, Armoor,
Nizamabad District.

..... PETITIONER

AND

1 The Regional Provident Fund Commissioner, Employees Provident Fund

Organisation, O/o Regional P.F. Commissioner, Sub-Regional Office,

Nizamabad.
2 The Union of India, Ministry of Labour, New Delhi Rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records and issue appropriate order or direction particularly one in the nature of Writ of Certiorari, declaring that the enactment 7Q w.e.f. 1-7-97 as unconstitutional void abintio and non-est and quash struck down the impugned order No. AP/NZB/PD Cell /AP/28316/CA/1169, dated 21-11-2002 calculating amount of Rs.42,993/- as due towards simple interest @! 12% p.a. from 6/98 to 7/2001 under section 7Q of the E.P. and M.P. Act passed by the 1st respondent as ultra vires and unconstitutional and pass such order or further orders as this Hon’ble

Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.N.VENKATRAMA REDDY

Counsel for the Respondent No.2: MR.A.RAJASHEKAR REDDY

SC FOR CENTRAL GOVERNMENT

Counsel for the respondent NO.1: Mr.R.N.Reddy, SC FOR PF

The Court made the following:

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.22432 of 2003

JUDGMENT:(PER THE HON'BLE SRI JUSTICE J.CHELAMESWAR)

This writ petition is filed with the prayer as follows:

> "For the reasons stated in the accompanying Writ Petition, Affidavit, the Petitioner herein prays that this Hon'ble Court may be pleased to call for the records and issue appropriate order or direction particularly one in the nature of Writ of Certiorari, declaring that the enactment 7Q w.e.f. 1.7.97 as unconstitutional void abintio and non-est and quash struck down the impugned order No.AP/NZB/PD Cell/AP/2316/CA/1169, dated 21.11.2002 calculating amount of Rs.42,993/- as due towards simple interest @ 12% p.a. from 6/98 to 7/2001 under section 7Q of the E.P. and M.P. Act passed by the 1st respondent as ultra vires and unconstitutional and pass such order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

The substance of the prayer is that the petitioner seeks that Section 7-Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 be declared as unconstitutional and consequentially declare the proceedings of the first respondent dated 21.11.2002 to be illegal.

The matter is listed today for admission. It appears from the proceeding sheet that on 24.10.2003 the matter was listed before another Division Bench. Though

the matter was not admitted, notice before admission was ordered and an interim order was also granted, the details of which are not necessary for the present purpose. Thereafter, the matter underwent two adjournments. When the matter is taken up today for admission, the learned counsel for the petitioner placed an order of a Division Bench of this Court in writ petition No.23638 of 2003, which was disposed of by an order dated 26.03.2004.

According to the petitioner, the issue involved in the above mentioned writ petition and the present writ petition is identical, and therefore, the present matter may also be disposed of with the order similar to the one passed in the above mentioned writ petition.

From the certified copy of the order of the writ petition No.23638 of 2003, which is placed before us, it is noticed that the prayer is substantially similar to that of the prayer in the present writ petition. While disposing of the earlier writ petition, a Division Bench of this Court passed an order and the same is extracted hereunder:

> "1. There is already an interim order staying recovery proceedings against the petitioner subject to the condition of deposit of 50% of the demand.
>
> 2. Similar matters have been disposed of by us earlier with leave and liberty reserved to the petitioner to take up the question of legality and validity of interest under Section 7-Q of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, before the Authority in the appeal already filed by the petitioner, with direction that Appellate Authority while considering the appeal filed against the order passed under Section 7-A and Section 14-B will also examine the legality and validity of the interest under Section 7-Q.
>
> 3. We also dispose of this writ petition with the same orders on the same condition making the interim order operative till disposal of the appeal by the Appellate Authority, and 50% of the amount ordered to be deposited will also abide by the result of the appeal. No costs."

In the circumstances and more particularly in view of the representation made by the learned counsel for the petitioner, the present writ petition is also disposed of as directed by the Division Bench of this Court in the above extracted manner.

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J.CHELAMESWAR, J

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GODA RAGHURAM, J

Dated 28th September, 2004.

YCR/MRK

To

1 The Regional Provident Fund Commissioner, Employees Provident

Fund Organization, O/o Regional P.F. Commissioner, Sub-Regional

Office, Nizamabad.

2 The Secretary, Union of India, Ministry of Labour, New Delhi.

3. 2 C.D. copies.